

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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|---------------------------|---|------------------------|
| UNITED STATES OF AMERICA, | : | Case No. 3:09-cr-153 |
| | : | |
| Plaintiff, | : | Judge Timothy S. Black |
| | : | |
| vs. | : | |
| | : | |
| DAVID C. BIGI (1), | : | |
| ROBERT J. BIGI (2), | : | |
| | : | |
| Defendants. | : | |

FINAL PRETRIAL ORDER

This criminal case came before the Court for the Final Pretrial Conference on July 28, 2011 at 9:00 a.m.

I. THE PARTIES

THE UNITED STATES: represented by Dwight Keller, Esq. and Brent Tabacchi, Esq.

DEFENDANT DAVID BIGI (1): represented by Lawrence Greger, Esq.

DEFENDANT ROBERT BIGI (2): represented by James Fleisher, Esq.

II. CHARGES

(1) David Bigi:

Count 1: Conspiracy to Engage in Interstate Transportation of Stolen Property;

Counts 3-8, 10, 12-13: Interstate Transportation of Stolen Property;

Counts 15-17: Structuring Financial Transactions;

Counts 19-20, 26-27: Money Laundering;

Count 30: Conspiracy to Launder Money.

(2) Robert Bigi:

Count 1: Conspiracy to Engage in Interstate Transportation of Stolen Property;

Counts 3-8, 10, 12-13: Interstate Transportation of Stolen Property;

Count 19, 27: Money Laundering;

Count 30: Conspiracy to Launder Money.

III. PLEA NEGOTIATIONS

N/A

IV. MOTIONS

There are no outstanding pre-trial motions.

V. FINAL PRETRIAL ISSUES

A. General Business

1. Length of Trial, Trial Schedule

The Government anticipates that its case-in-chief will consume 8 business days and will be completed by 8/12/11. Defendants estimate that, combined, their cases-in-chief will not consume more than the third week of trial.

The first day of trial (8/1/11) will begin at 9:30 a.m. in Courtroom 5; attorneys should arrive by 9:00 a.m. The trial schedule for each subsequent day of trial may vary, as required by the Court's schedule. Lunch breaks and recesses will vary with the trial schedule.

Counsel shall be in the Courtroom 20 minutes before trial begins each day, and available during lunch and during recesses, in order to resolve any issues.

2. The Government will present its case first, followed by Defendant David Bigi, and then followed by Defendant Robert Bigi.
3. All Counsel anticipate moving for separation of witnesses. The Government is permitted one representative at Counsel table during the course of trial.
4. The Government anticipates its opening statement to be no longer than an hour and a half. Counsel for each Defendant anticipates opening statements will be no longer than an hour each.
5. Defendants anticipate giving opening statements after the government.
6. Counsel for Defendant David Bigi anticipates using visual equipment during trial and arrangements for such equipment will be coordinated between Counsel and the Clerk's Office. All requests for audio or visual equipment for use during trial are to be coordinated with the Clerk's Office.

7. Jencks material will be produced the night before the anticipated testimony of the witness.
8. Counsel for the parties have submitted proposed jury instructions and will provide the Court with proposed verdict forms by 8/1/11. All objections to tendered instructions shall be in writing and with citations of authority, and they shall be filed with the Court by 8/12/11. Failure to object may constitute waiver of any objections. Objections to jury instructions will be considered at the Charging Conference.
9. Admissibility of exhibits will be established before publication in Court.
10. Counsel shall endeavor as best as possible to anticipate any such motions or issues requiring a special hearing or proceedings outside the presence of the jury (including any evidentiary issues that might require sidebars) so that the Court can address those matters either during lunch or before the start of trial each day.

B. Procedure:

1. Counsel for the parties have either received jury questionnaires or anticipate receiving those questionnaires immediately following the Final Pretrial Conference.
2. Voir Dire: Counsel Dwight Keller will conduct voir dire on behalf of the Government; Lawrence Greger will conduct voir dire on behalf of David Bigi; James Fleisher will conduct voir dire on behalf of Robert Bigi. Counsels' questions will be directed to the entirety of the jurors and the parties are permitted move to strike any juror, not just those within the jury box.

The following are the number of strikes and the number of alternates:

| | | |
|---------------------|---------------|----------------|
| Peremptory Strikes: | Government: 6 | Defendants: 10 |
|---------------------|---------------|----------------|

| | |
|-------------|---|
| Alternates: | 4 |
|-------------|---|

Strikes as to

| | | |
|-------------|---------------|---------------|
| Alternates: | Government: 2 | Defendants: 2 |
|-------------|---------------|---------------|

3. Ground Rules and Procedures:

- a. Counsel are to stand to make an objection and may be requested to state the basis of any objection. Counsel are expected to state the basis of an objection within two sentences or less. Counsel may also be called upon to respond to an objection, and Counsel are expected to state responses to objections within two sentences.

The Court will then rule on the proposed objection.

- b. Counsel shall request leave to approach witnesses. Such leave will be freely granted upon proper request.
 - c. Offers of proof will be addressed during breaks.
 - d. When questioning witnesses, Counsel shall either stand at the lectern or at Counsel table or elsewhere as approved by the Court.
 - f. The Government has been granted a brief extension to provide Defense Counsel with exhibits. The Government shall make a good faith production of trial exhibits to Defense Counsel by July 30, 2011 at 9:00 a.m., and, thereafter, shall make present its finalized three ring binders of trial exhibits to the Court and Counsel before 9:30 a.m. on August 1, 2011.
4. Transcript Requests: If the parties seek transcription of proceedings at any time during trial, the parties are to immediately request CJA approval of the Court for the transcription and also notify the Court Reporter.

VI. MODIFICATION

This Final Pretrial Order may be modified at the trial of this action, or prior thereto, to prevent manifest injustice. Such modification may only be made by application of counsel, or on motion of the Court.

IT IS SO ORDERED.

Date: 7/28/11

Timothy S. Black
Timothy S. Black
United States District Judge